IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

OP.No. 24035 of 1999(J)

PETITIONER:

K.V. KURIAKOSE,
KANNANGANAMALIYIL HOUSE,
THRIKKARIYOOR.P.O.,
THRIKKARIYOOR VILLAGE,
KOTHAMANGALAM TALUK,
ERNAKULAM DISTRICT.

BY ADV. SRI.P.V.BABY.

RESPONDENTS:
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1. **THE PLANTATION CORPORATION OF KERALA LTD.,**
   REPRESENTED BY ITS MANAGING DIRECTOR,
   OFFICE OF THE PLANTATION CORPORATION OF KERALA,
   KOTTAYAM- 4.

2. **THE GENERAL MANAGER (SALES),**
   PLANTATION CORPORATION OF KERALA LTD.,
   OFFICE OF THE PLANTATION CORPORATION OF KERALA LTD.,
   KOTTAYAM - 4.

BY ADV. SRI.JOSEPH KODIANTHARA,
ADV. SRI.MITHUN MARKOS.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P. NO. 24035/1999-J:

ORDER ON C.M.P. NO. 40291/1999 IN O.P. NO. 24035/1999-J

DISMISSED

22/10/2007. **SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE.**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE TENDER NOTIFICATION DT. 19/06/99 ISSUED BY THE R.2.

EXT.P.2: COPY OF THE INTIMATION DT. 08/02/99 ISSUED BY THE R.2. TO THE PETITIONER.

EXT.P.3: COPY OF THE AGREEMENT DT. 12/03/99 SIGNED BY THE PETITIONER.

EXT.P.4: COPY OF THE COMMUNICATION DT. 12/03/99 ISSUED BY THE R.2. TO THE MANAGER, CHANDANAPPALLY ESTATE.

EXT.P.5: COPY OF THE PETITION DT. 08/04/99 SUBMITTED BY THE PETITIONER BEFORE THE R.1.

EXT.P.6: COPY OF THE COMMUNICATION DT. 07/04/99 ISSUED BY THE R.2. TO THE MANAGER, CHANDANAPPALLY ESTATE.

EXT.P.7: COPY OF THE PETITION DT. 27/04/99 SUBMITTED BY THE PETITIONER TO THE R.1.

EXT.P.8: COPY OF THE ORDER DT. 27/04/99 ISSUED BY THE R.2. TO THE MANAGER, CHANDANAPPALLY ESTATE.

EXT.P.9: COPY OF THE COMMUNICATION DT. 27/04/99 BY THE R.2. TO THE MANAGER CHANDANAPPALLY ESTATE FOR RECOVERING 25% PENAL INTEREST.

EXT.P.10: COPY OF THE COMMUNICATION DTD. 16/03/99 ISSUED BY THE MANAGER TO THE R.2.

EXT.P.11: COPY OF THE COMMUNICATION DT. 05/05/99 ISSUED BY THE MANAGER, CHANDANAPPALLY ESTATE TO THE R.2.

O.P. NO. 24035/1999:

EXT.P.12: COPY OF THE CORESPONDENCE DT. 07/05/99 BY THE MANAGER, CHANDANAPPALLY ESTATE TO THE R.2.

EXT.P.13: COPY OF THE COMMUNICATION DT. 15/05/99 ISSUED BY THE R.2. TO THE MANAGER, CHANDANAPPALLY ESTATE WITH COPY TO THE PETITIONER.

EXT.P.14: COPY OF THE PROCEEDINGS DT. 05/04/97 OF THE R.2. NO. 172.

EXT.P.15: COPY OF THE ORDER DT. 29/05/99 OF THE R.2. ISSUED TO THE MANAGER, CHANDANAPPALLY ESTATE.

EXT.P.16: COPY OF THE CORRESPONDENCE DT. 10/06/99 ISSUED BY THE MANAGER TO THE R.2.

EXT.P.17: COPY OF THE COMMUNICATION DT. 18/05/99 ISSUED BY THE MANAGING DIRECTOR, TRAVANCORE PLYWOOD INDUSTRIES LTD. TO THE R.1.

EXT.P.18: COPY OF THE EXTRACTS OF THE MINUTES OF THE BOARD OF MANAGEMENT OF THE R.1.

EXT.P.19: COPY OF THE COMMUNICATION DT. 30/07/99 ISSUED BY THE R.2. TO THE MANAGING DIRECTOR, TRAVANCORE PLWOOD INDUSTRIES LTD.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.24035 OF 1999

Dated this the 22nd day of October, 2007

JUDGMENT

Heard counsel for parties.

In view of clause 17 of Ext.P3, which is an agreed term of penalty fixed at 25%, I do not find any legal infirmity in the imposition of 4% penalty by the Plantation Corporation. Having found that there is no legal infirmity, I further hold that there is no jurisdictional error. Beyond that, there is no scope for any adjudication on the liability of the parties in terms of Ext.P3 contract. The writ petition fails. The same is accordingly dismissed.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.24035 OF 1999

JUDGMENT

22nd OCTOBER, 2007.

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